

**Notice of Allowability**

Application No.

09/980,762

Examiner

ILIA OUSPENSKI

Applicant(s)

WEINER ET AL.

Art Unit

1644

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/12/2008.
2. ☒ The allowed claim(s) is/are 1,10-12,41-46,55-59,70-73 and 82.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application   |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>4/16/2008</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date ____     | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                                     |
|  | 9. <input type="checkbox"/> Other ____.   |

ILIA OUSPENSKI, Ph.D.  
Primary Examiner  
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### **DETAILED ACTION**

1. Applicant's amendment and remarks, filed on 02/12/2008 are acknowledged.

Claims 1, 10 – 12, 16, 19 – 22, 41 – 46, 48, 51 – 59, 61, 64 – 67, 70 – 73, 75, and 78 – 82 are pending.

Claims 16, 19 – 22, 48, 51 – 54, 61, 64 – 67, 75, and 78 – 81 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected Inventions. Applicant timely traversed the restriction requirement in the reply filed on 01/17/2006.

2. An Examiner's Amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the Issue Fee.

Authorization for this Examiner's Amendment was given by Applicant's Representative Mark DeLuca in a telephone interview with the Examiner on 04/16/2008.

### ***Examiner's Amendment***

#### In the Specification:

3. The TITLE has been replaced with: -- NUCLEIC ACIDS ENCODING  
MUTANT HUMAN CD80 AND COMPOSITIONS COMPRISING THE SAME --

In the Claims:

4. Claims 16, 19 – 22, 48, 51 – 54, 61, 64 – 67, 75, and 78 – 81 have been cancelled.

5. Applicant's amendment and arguments filed on 02/12/2008 have obviated the rejections of record, set forth in the Office Action mailed on 09/12/2007.

***Claims 1, 10 – 12, 41 – 46, 55 – 59, 70 – 73, and 82 are allowed.***

The prior art does not teach or suggest the claimed nucleic acids encoding mutant human CD80, or compositions comprising said nucleic acids.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ILIA OUSPENSKI whose telephone number is (571)272-2920. The examiner can normally be reached on Monday-Friday 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen B. O'Hara can be reached on 571-272-0878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ILIA OUSPENSKI, Ph.D./

Primary Examiner, Art Unit 1644

April 17, 2008